



Request for Proposal

City of Rochester

**Hosting and system support services
for replacement of Existing IBM
Mainframe at Vendor site**

Department of
Information Technology

Issue Date: Oct 26, 2016
Due Date: Dec 7, 2016

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Section I - Project Background and RFP Process

1.1 Request for Proposal

Date of Issue:	October 26, 2016
Proposal Due Date:	December 7, 2016

This Request for Proposal (RFP) provides interested vendors with information to enable them to prepare and submit a proposal for consideration by the City of Rochester, NY ("City"). This RFP is soliciting information and cost details regarding the capabilities of vendors ("Vendor") specializing in IBM Mainframe hosting, System Administration, Systems Programming support and enhancement services which will replace the existing IBM Z10 Business class processor at City of Rochester.

This RFP has been prepared to provide general information, background, and proposal requirements.

The City of Rochester RFP Coordinator:

Kumar Thavakumar
585-428-7039
Kumar.Thavakumar@CityofRochester.gov

The identified RFP Coordinator is the sole point of contact regarding this RFP from the date of distribution until the selection of the successful vendor or vendors.

In addition to indicating the contents expected in a proposal, this RFP is intended to generally describe the terms and conditions of an agreement to be entered into by a responsible Vendor and the City of Rochester to assist prospective Vendors in determining whether or not to participate in this RFP process.

As a result of this RFP, the City of Rochester intends to enter into a contract with the selected Vendor to provide the environment and system maintenance services to support the mainframe applications. The City of Rochester reserves the right, in its sole discretion, to (a) accept or reject in part or in its entirety any proposal received as a result of this RFP if it is in the best interest of the City of Rochester to do so; (b) award one or more contracts to one or more qualified Vendors if necessary to achieve the objectives of this RFP and if it is in the best interest of the City of Rochester to do so.

1.2 Community Profile

http://en.wikipedia.org/wiki/Rochester,_New_York

Rochester is a city in Monroe County, New York, south of Lake Ontario in the United States. The Rochester metropolitan area is the second largest economy in New York State, behind the New York City metropolitan area. Known as The World's Image Centre, it was also once known as The Flour City, and more recently as The Flower City. It is the county seat for Monroe County.

Rochester's city population according to the 2010 census is approximately 210,565, making it New York's third most populous city after New York City and Buffalo. It is at the center of a larger Metropolitan Area which encompasses and extends beyond Monroe County and includes Genesee County, Livingston County, Ontario County, Orleans County and Wayne County. This area, which is part of the Western

New York region, had a population of 1,037,831 people at the time of the 2000 Census. As of April 1, 2010, the 2010 Census indicated that this population rose to 1,054,322. Rochester was ranked sixth among 379 U.S. metropolitan areas in the 25th edition of the Places Rated Almanac for 'Most Livable Cities'. In 2007, Rochester was ranked as the top city in the country by Expansion Management Magazine for quality of life. Expansion Management rated the region's public schools sixth best nationwide, among metropolitan areas of a million people or more. (Wikipedia, August 2011)

The current mayor of Rochester is Lovely A. Warren.

1.3 Project Scope

1.3.1 Project Background

The City of Rochester's current end user environment supports approximately 10 major Legacy systems. The City of Rochester is in the process of moving all legacy applications to new enterprise solutions. This RFP is to provide a replacement environment and its ongoing support with remote connectivity to host the mainframe legacy systems during the interim period. The City of Rochester will maintain support of the legacy systems.

1.3.2 Current Environment.

City of Rochester's Mainframe Legacy Applications run on IBM Z10 Business Class Processor. See also [Attachment B](#)

Mainframe Hardware:

2098-E10 Model F01 z10 series Business Class Processor-59 MIPS (2 LPARS). MSU-7.

CPUID: = FF0164A620988000

CPU SERIAL #: 164A6

2424 (DS8870) EXTERNAL DASD SPECS:
CONFIGURED AS 3390 DASD
4.8TB
15 TRKS/CYL.
58786 BYTES/TRK.
2.945 GB/PACK.

CHANNEL SPECS:
EIGHT ESCON CHANNELS.
EIGHT FICON CHANNELS FOR DASD AND TAPE .

VIRTUAL IBM Type 3490 (16 DRIVES)
TAPE ADDRESSES: 470-477 (PRODUCTION ONLY) VTA USE
DRIVES: 480-483 (TEST ENVIRONMENT) VTA USE
490-493 (Free Drives for CMS usage)

REAL TAPE IBM TYPE 3592 CARTRIDGE (2 DRIVES)-Disaster Recovery Purposes
DRIVES: ADDRESSES: 5B0-5B1 (VM/VSE USAGE)

PRINTERS: XEROX D95CP LASER PRINTER (3211)
 XEROX D120CP AT CITY HALL FOR BACKUP.

Mainframe Software:

- z/VM – Version 5 Release 4.0
- z/VSE – Version 5 Release 1 (soon to be 5.2)

Supporting Software and File structure

- COBOL 74, COBOL 85, CICS COBOL(Command and Macro)
- UFO : User Files Online language for online applications; runs in CICS (third party development tool)
- VSE JCL
- VSAM file structure
- Tape files
- Panvalet
- IDCAMS utility
- CMS for file edit
- EASYTRIEVE / EASYTRIEVE Plus
- AMSERV
- DYNAM/T –tape management system and DYNAM/D and DYNAM/FI
- SAS
- REXX and EXEC(s)
- RSCS
- SYNC SORT
- Xerox DesignPro for forms design
- FTP to and from Mainframe
- PostScript
- PCL
- WebTek

Current Print Process:

- 1) Xerox Printers (>95 %): There are two Xerox Printers available for all Mainframe Batch printing. Primary printer (D95CP) is located at City Computer Operation Room and the backup printer is located at City Hall.

High level information regarding printing:

- a. Performed from the VSE list queue
- b. Transferred through a channel attached bus and tag connection to a MIS print server:
 - i. Runs Solaris 10 software
 - ii. Translates necessary forms from DJDE cards within the JCL
 - iii. Converts the data into postscript ready output
 - iv. Sends to the Xerox printer assigned.

- c. Both Xerox printers have the capability to host MIS print software natively, thus can perform the required form printing independently.
- 2) Impact Printer (<5%) – From the List queue, using an appropriate JCL, print is directed to this IP based impact printer for multi-part paper printing.
- 3) All CMS users have the capability to print from their CMS machines to a designated printer via RSCS.
- 4) Online systems (UFO) run under CICS, some applications produce reports and transfer them to a CMS utility machine that reads the report file and transforms it into a postscript print file and then automatically directs it to a designated RSCS printer.

Current Tape Process:

- 1) Legacy systems are backed up using CA-DYNAM/D software adapted to CA-DYNAM/T catalog concept. This is a totally disk storage solution.
- 2) IBM 3592 (2 drives) – DR purposes only. Using CA-DYNAM/T concept, daily three tapes are produced backing up all systems and the data catalogs. Tapes are sent off site for DR purposes, but retained locally. Only five generations for up to two days are kept. FlashCopy is planned for DR purposes only and may already be implemented, or soon to be.

1.3.3 Objective of Mainframe Hosting.

- The City hopes to find a more cost effective and low risk hosted solution for the current City mainframe processing. The solution should be robust and have sufficient longevity so that city operations are sustained while legacy applications are migrated to new enterprise solutions.
- Vendors should provide seamless transitioning of day to day operation for the City of Rochester by understanding the current environment for hosting.
- Improve processing efficiencies;
- Flexibility in future cost is desired through a scalable offering that accommodates a decremented pricing option.
- Accommodate reductions in Mainframe Software, third party software and Hardware resources as applications will be moved off the mainframe to enterprise solutions.
- Optionally, improve disaster recovery capabilities by moving to a dedicated disaster recovery solution with acceptable test results;
- The Vendor's proposal should address the following major items, but respond to all items in the requested services [Section IV](#) below.
 - Hosting of the mainframe hardware and software environment as listed in [Attachment B](#).
 - 24x7 service delivery for hosting the mainframe requirements,
 - System Programmer support for the following
 - Maintaining IBM and Third Party operating system software
 - Providing version level upgrades and new installs
 - Applying PTFs, which includes reviewing Vendor alerts and hot-fix patches regularly
 - Applying security alerts and hot-fixes
 - Scheduling vendor maintenance upgrades
 - Capacity planning and performance monitoring/tuning
 - Suggestions/solutions for improved system performance
 - Timely response to issues observed or reported, consistent with agreed upon timeframes for SLAs, to be identified in the contract SOW.

- Coordination on behalf of the customer with communications vendors and network providers as required
 - Application problem resolution assistance
 - Managing CPU, disk and tape utilization.
 - Performing security administration.
 - Setting up additional mainframe resources
 - Providing OS support requirements for device changes
 - Executing customer-defined backup procedures
 - Performing restores as necessary, ad-hoc dataset through full volume recovery. Individual dataset restoration requests as needed
 - Providing timely technology information updates to keep clients current in terms of new technology solution offerings and include early notification of de-support considerations and assist in decision making. Keep clients aware of best of breed solutions.
 - Technical systems support for both IBM software and third party software,
 - Application operations support on as needed basis
 - Computer environment operating system support
 - Backup management and off-site storage
 - Dedicated Disaster Recovery solution.
 - Identify primary site location and DR site and the distance between them
 - Frequency and time delay of data transfer from the primary site to the DR site
 - Identify Recovery time for a full system recovery once disaster is declared
 - 24x7 Help Desk support,
 - Account Management
 - Supporting all FTP processing initiated and/or received by mainframe, including use of remote desktop connection.
 - Ability to print from the host to City Mainframe printer without changes to the existing process.
 - Ability to connect to the host 24x7 from City PC(s) via existing blue zone emulator for ease of use by the users.
 - Should maintain the system access status quo of file structure, back up structure, system admin structure etc.
 - Fully understand and support or improve the existing day and night automated process running in VM and/or VSE.
- Additionally, please include a sample Statement of Work (SOW) and Disaster/Recovery (D/R) plan from a prior or existing customer

The City will retain the following:

- Mainframe applications support,
- Production control/job scheduling,
- In-house print functions and printing.
- Network support and connectivity (TBD)

1.3.4 Project Scope Summary

Through this RFP, the City of Rochester expects to select a vendor:

- That can provide a complete hosted solution
- Thoroughly understand the current environment
- Provide a seamless transition to access the mainframe in the hosted environment
- Ensure the City's day to day operations are not disrupted
- Provide support 24x7.

Proposal should include:

- A complete transition plan (ie. Evaluation, connectivity plan, hosting, testing, production implementation and post- implementation)
- Hosting environment
- Assurance to adhere to the City's security and Professional Service Agreement as per City's requirements.
- Costs
 - Transition cost
 - Base monthly charge for mainframe hosting and support services which should include all IBM related software and hardware cost based on current environment and Disaster Recovery cost.
 - Identify any incremental or incidental costs
 - Long term reduction of cost if and when MSU can be reduced as a result of application systems migrating off the mainframe or by implementing efficiencies.

1.4 RFP Process & Procedures

Throughout the entire RFP process the following guidelines and procedures will apply: The City of Rochester must receive all proposals by **December 7, 2016 at 5:00 PM EST**. The City of Rochester reserves the right to reject any proposal received after this date. All submitted proposals must be valid through **January 4, 2018 at 5:00 PM EST**. The City of Rochester maintains the right to discontinue the RFP process with any vendor at any point in time.

- Vendors are encouraged to submit by email, their intent to respond to this RFP. This will allow the RFP Coordinator to provide updates, revisions, and response to questions to interested vendors.
- Vendors shall promptly respond by email or traditional mail to the RFP Coordinator with additional inquiries. Please see [Section 1.5](#) below for specific instructions on submitting questions and requests for clarification.
- The City of Rochester is under no obligation to award a contract to any vendor.
- No procedure is in place within this process for reconsideration of a vendor after a choice has been made, and the City of Rochester need give no reason for the selection or rejection of any vendor.
- The City of Rochester requires the parties to enter into a contract prior to the commencement of any work. RFP responses may be attached to the contract as the Statement of Work but will be subject to the terms and conditions of the agreed contract between the City of Rochester and the vendor as set out in [Section 2.5](#).

- Participation in the RFP process is the vendor's sole decision. Although the City of Rochester intends to adhere to the process as stated herein, the City of Rochester reserves the right to modify the process, requirements, and/or timetable.
- The City of Rochester assumes no liability for costs or damages incurred by the vendor during or resulting from this RFP process.

The City of Rochester reserves the right to:

- Reject any and all proposals received in response to this RFP, and reject any candidate.
- Investigate the vendor's qualifications, financial stability, and ability to perform the required services to successfully implement the vendor's proposed solution with the City of Rochester.
- Request additional information deemed necessary for the proper evaluation of the vendor's proposal.
- Waive or modify any informal or immaterial deficiency in a proposal after prior notification to the vendor.

1.5 Questions & Requests for Clarification & RFP Addenda

Questions that arise prior to or during proposal preparation may be submitted in writing or via email pursuant to instructions in [Section 1.1](#) of this Request for Proposals. Questions and answers will be provided to all vendors who have acknowledged intent to respond to the RFP Coordinator. No contact will be allowed between the vendor and any other member of the City with regard to this RFP during the RFP process unless specifically authorized by the RFP Coordinator. Prohibited contact may be grounds for vendor disqualification.

In the event it becomes necessary to revise any part of this RFP, addenda will be provided to all vendors who have acknowledged intent to respond.

1.6 Transmittal Letter

The vendor must submit a transmittal letter along with the proposal. The letter is an acknowledgement by the vendor that its attached proposal is the vendor's official response to the City of Rochester RFP. The letter must state that all information contained in the proposal is factually true and accurately meets the response criteria of all RFP sections. An authorized officer of the vendor's firm must sign the transmittal letter.

1.7 Proposal Submission

1.7.1 Submission of Sealed Proposals

All proposals and accompanying documentation will become the property of the City of Rochester and will not be returned. Each vendor should provide 3 hard copies and one soft copy on USB Flash Drive for use by the City of Rochester.

Complete responses are to be packaged, sealed and submitted to the City of Rochester and should be addressed to:

Kumar Thavakumar – Application Services
Information Technology Department
City of Rochester
Public Safety Building
185 Exchange Blvd., Suite 530
Rochester, New York 14614-2162

All proposals must have a label on the outside of the box or package itemizing the following information:

RFP ENCLOSED

Due: **December 7, 2016**

1.7.2 Liability for Proposal Preparation Expense

The City of Rochester is not liable for any costs incurred by a vendor in the preparation and production of a proposal, nor does the City of Rochester require any payment to the City to submit a proposal.

1.7.3 Proposal Security

Subject to applicable law, the content of each vendor's proposal will be held in strict confidence during the evaluation process, and no details of any proposal will be discussed outside the evaluation process.

1.7.4 Record Disclosure/Confidentiality of Proprietary Records

Vendor hereby agrees that all documents furnished shall be subject to public disclosure by the City of Rochester in the normal course of business in accordance with the requirements of the Public Officers Law, Article 6, except for proprietary information the disclosure of which would cause substantial injury to the competitive position of Vendor's enterprise. Information relating to Vendor price submissions, including commercial, book or list pricing, applicable discounts or final price and like information, shall not be entitled to confidentiality protection whether or not submitted or designated as proprietary by the Vendor. Vendor may otherwise preserve proprietary rights as to confidential or business process information in accordance with procedures established under Section 89, Public Officers Law, provided that: (i) Vendor shall inform the City prior to submission of its information, in writing, that such records are going to be furnished, are proprietary and are not to be disclosed; (ii) said records shall be sufficiently identified; and (iii) Vendor shall inform City of Rochester the reasons why the information should be exempted from disclosure; and (iv) designation of said records as exempt from disclosure is reasonable and accepted by the City.

In the event the City receives a request or order for the release of any vendor information, the City shall provide Vendor with prompt notice thereof so Vendor may consult with the City concerning the release of records and seek a protective order or other appropriate remedy prior to such disclosure, if Vendor chooses to do so.

1.7.5 Tax Provisions

Purchases made by the City of Rochester are exempt from New York State and local sales tax and federal excise taxes, but the City of Rochester is not exempt from paying unemployment insurance or

federal Social Security taxes. The official City of Rochester purchase order or voucher for materials, equipment, and supplies is sufficient evidence to qualify the transaction exempt from sales tax.

Section II – Guidelines for Proposal Content & Structure

The following section describes the City of Rochester RFP requirements that must be adhered to by each vendor submitting a response to this RFP. Each proposal must be formatted as noted below and must contain the sections described below along with a Table of Contents.

2.1 Executive Summary

The vendor must provide an executive summary of the proposed solution. Areas to be covered include:

- Brief overview of proposed solution and how this will benefit the City of Rochester.
- Associated costs, timelines, or constraints.
- Any additional information, which will be beneficial to the City of Rochester in the evaluation process.

2.2 Company Background

2.2.1 Brief Historical Summary

The vendor must provide a brief historical summary of the vendor's company. Areas to be covered include:

- Overall Vision and Mission.
- Company USA and Canadian locations and associated staffing/functional organizations represented at each location.
- General background and current information about the company and key personnel.
- Strategic company direction and how this direction will benefit the City of Rochester by referencing specific sections of the City of Rochester RFP.
- Current public sector customers.
- Additional information useful for the City of Rochester evaluation process.

2.2.2 Vendor Information

In this section each vendor will provide information on your company. Please respond within the format provided. This will ensure that all information is provided and will facilitate our use of the information.

Question	Vendor Response
Official Name of Company	
Headquarters' Address	
Telephone Number	
Fax Number	

Question	Vendor Response
Federal Tax ID Number	
Names under which the business has operated within the last 10 years.	
Contact Name for questions concerning RFP response.	
Contact's Telephone Number	
Contact's e-mail address	
Is company authorized and/or licensed to do business in the State of New York?	YES or NO
Does your company have an office in the City of Rochester or County of Monroe?	YES or NO
Company Ownership	Public or Private
If Private, list primary owners and their percentage ownership.	
If Public, list stock trading symbol and market which it is traded.	
Has corporate ownership changed in the last 5 years? If so, provide details.	YES or NO
Has the company purchased any other companies or divisions of companies in the last 5 years? If so, provide details.	YES or NO
Has the company or any of its principals defaulted on any municipal contracts in the past 5 years? If so, provide details.	YES or NO
Please provide details on any lawsuits involving the company that are currently pending or occurred in the past 5 years.	
Has your company ever been declared bankrupt or filed for protection from creditors under state or federal proceedings? If so, state the date, court, jurisdiction, amount of liabilities and amount of assets.	YES or NO
Is your Company currently on the approved NYS Contract list? If yes, identify contract services and contract numbers	YES or NO
Is your Company designated as M/WBE by the City, County or State	YES or NO

2.2.3 Vendor Customer References

The vendor must provide a sample of organization customers with a similar size to that of The City of Rochester, NY, including contact names, addresses, and telephone numbers, which the vendor and subcontractor(s) have performed similar work for within the last five (5) years. At least one of these customers should be highlighted as references regarding any implementation efforts in which the key personnel proposed to implement this project have been assigned.

Representatives of the City of Rochester expect to contact some of these reference clients. The vendor and any subcontractor(s) must state if he/she has been sanctioned, suspended or debarred by any

authorities or oversight entities within the last ten (10) years and the reason for the sanction, suspension or debarment.

Customer Reference 1	
Project Name	
Organization Name	
Organization Size	
Organization Address	
Contact Name	
Contact Phone Number	
Contact email	
Implementation team size	
Project Completion Date	
Customer Reference 2	
Project Name	
Organization Name	
Organization Size	
Organization Address	
Contact Name	
Contact Phone Number	
Contact email	
Implementation team size	
Project Completion Date	
Customer Reference 3	
Project Name	
Organization Name	
Organization Size	
Organization Address	
Contact Name	
Contact Phone Number	
Contact email	
Implementation team size	
Project Completion Date	

2.3 Detailed RFP Response

Each proposal must respond to the following mandatory services and requirements. Proposals not meeting these mandatory services and requirements will be considered non-responsive and will be rejected. The vendor must clearly define any assumptions made in preparation of this RFP proposal. The vendor should describe the proposed advantages to the City of Rochester and how these relate to the City's overall project scope.

Additionally, please include a sample Statement of Work (SOW) and Disaster/Recovery (D/R) plan from a prior or existing customer

2.3.1 Overview

This RFP describes the professional technical staff requirement needs for the Information Technology (IT) department, Application Development team, in the City of Rochester. The Application Development team provides support to several key legacy applications for the City of Rochester Departments. The team consists of five full-time developers that provide support for mainframe online and batch processing.

The City is in the process of moving legacy systems to off-the-shelf enterprise systems. Currently the mainframe is located at City of Rochester datacenter and the System Programming support is contracted to an IBM Business partner who provides 24x7 support, and disaster recovery services. The RFP is for hosting of Mainframe at vendor's location by eliminating the in-house responsibility of overseeing the mainframe requirements and services.

2.4 RFP Response Evaluation

Scoring will be based on the following criteria. A committee will evaluate, score, and rank proposals based on the responses provided. The City can add additional criteria as needed.

- Customer references on similar engagements that provide:
 - Demonstrated capability to provide and perform contract services
 - Satisfaction level with past performance
 - Evidence of work products delivered
 - Capability to deliver services promptly, in the time required and without delay or interference
 - Perceived qualifications of key project personnel
- Capacity to service account
 - Ability to provide consistent continual resource staffing, preferably without turnover
- The supplier's willingness to accept, without reservation, the RFP terms and conditions
- The reasonableness of the proposed fee for the services
- Quality of answers to RFP questions
- Reporting capability
- Stability – evidenced by years providing this service, and list of customers
- M/WBE vendor or not.

2.4.1 Overview

The overview should demonstrate the vendor's overall qualifications to fulfill the requirements of this RFP, including a preferred minimum of ten years of IBM Mainframe System Programming experience in z/VM and z/VSE and understanding of VSAM file structure with strong skills in VM/VSE operation, background of VSE/JCL, VM script languages such as REXX, EXEC, EXEC2, and familiarity with CMS edit and utility functions are essential. There is also a preferred minimum of five years of experience in hosting solutions.

2.4.2 Customer References

The vendor will be evaluated on their references, as requested in [Section 2.2.3](#). Government experience is preferred, and with a similar size to that of The City of Rochester, NY.

2.4.3 Fee Schedule & Pricing Information

The vendor must detail its pricing and payment terms, in terms of hourly rates and any additional charges. The proposal must provide a detailed breakdown of charges for each service. The City of Rochester, NY will select a vendor based on being able to pick and choose from the pricing and service alternatives as proposed. The City of Rochester, NY reserves the right to negotiate services and prices.

Vendor will complete a comprehensive cost proposal (refer to [Attachment A](#)) that includes all expected costs. The response should also include NYS/GSA pricing if available.

2.5 Terms and Conditions

2.5.1 Acceptance of the Proposal

The City of Rochester reserves the right not to accept any proposal. The RFP should not be construed as a contract to purchase services and the City of Rochester shall not be obligated in any manner until a written agreement relating to an approved proposal has been duly executed.

2.5.2 Proposal Revisions

Proposal revisions must be received prior to the proposal submission/closing date and time.

2.5.3 Financing of Proposals

Vendor is solely responsible for any and all costs associated with preparing and submitting proposals and such costs will not be the responsibility of the City of Rochester.

2.5.4 Acceptance of RFP Conditions

Receipt of proposal by the City of Rochester will be considered acceptance of the RFP terms and conditions by the Vendor, and will be incorporated into the Vendor's proposal.

2.5.5 Subcontracting

Subcontracting may be allowed for some requested services as a condition of the anticipated contract for service. If contracting is expected, proposed subcontractors must be listed in the proposal.

2.5.6 Warranty

Vendor represents and warrants that it is available to perform the services outlined in its proposal and furthermore that it is under no conflicting obligations that may interfere with its duties to the City of Rochester because of work it may have undertaken with others if its proposal is accepted.

2.5.7 Funding

The implementation of the selected proposal is dependent upon funding for the work set forth in the proposal being approved by the City of Rochester, City Council.

2.5.8 Confidentiality

Under no circumstances will Vendors, or any employee or agent thereof, directly or indirectly disclose the terms or receipt of the RFP to a third party without the written consent of the City of Rochester.

2.5.9 Indemnification

Vendor hereby agrees to defend, indemnify and hold the City of Rochester harmless for and against any and all claims, losses, damages, costs, expenses, and other actions made, sustained, brought, threatened or prosecuted in any manner based upon or arising from any communication or action by Vendor in the proposal or purported performance of the agreement herein, or claims relating to the infringement of copyrights, trademarks, trade secrets, patents, or any other confidential information or intellectual property of another.

2.5.10 Termination

The City of Rochester may terminate this proposal at any time for any reason whatsoever and is not obligated to accept the lowest cost vendor bid proposal.

2.5.11 Proposal Withdrawal

Prior to the proposal closing date, a submitted proposal may be withdrawn by Vendor by submitting a written request to the City of Rochester contact named in the RFP. All such requests must be signed by a duly authorized representative of the Vendor.

2.5.12 Ownership

All documents submitted by Vendors shall become the property of the City of Rochester.

Section III – Schedule of Events

3.1 Timetable of Events

The vendor evaluation and selection process has specific timetables and requirements, as noted below:

End Date	Activity
October 26, 2016 at 5:00 PM	RFP Posted to City of Rochester Website
November 2, 2016 at 5:00 PM	Notification of Intention to Submit a Response
November 9, 2016 at 10:00 AM	Question and Answer Session at the Public Safety Building (Optional)
November 16, 2016 at 5:00 PM	Latest date for Questions and Requests for Clarification from Vendors. email is preferred – please send to Kumar.Thavakumar@CityofRochester.gov
November 22, 2016 at 5:00 PM	Response to Questions and Request for Clarification
December 7, 2016 at 5:00 PM	Submission of Proposals Due
January 4, 2017 at 5:00 PM	Short Listed Vendor Notification
January 4, 2018 at 5:00 PM	Proposal Expiration

The City of Rochester will delay the Vendor Selection process if required to achieve specific City of Rochester objectives.

3.2 Professional Service Agreements

3.2.1 Finalize Pricing and Professional Services Agreement Terms

The vendor and the City of Rochester will negotiate a beneficial agreement to ensure a productive partnership. The selected vendor's response to this RFP will form the basis of these negotiations and may be considered part of the final agreement.

The City of Rochester has attached its standard Professional Services Agreement (PSA), as a reference, which will be the binding contract between the vendor and City of Rochester ([Section V](#)). The vendor license agreement and statement of work (defined as “contract”) will be attachments to this PSA.

No binding agreement between the vendor and the City of Rochester will be established or inferred until a final PSA, including all terms and conditions, has been signed. In the event of any conflict between this RFP, the vendor response, interim negotiations, and the final PSA, the terms of the final PSA will take precedence.

3.2.2 Select Preferred Vendor(s) & Notify all Vendors

Upon assessment of vendor solutions and completion of negotiations, the evaluation team will select the vendor(s). The City of Rochester may request a follow-up presentation from any vendor.

3.2.3 Finalization of the Implementation Plan

The selected vendor(s) and the City of Rochester will collaborate to finalize the implementation plan and costs and delivery schedule.

Section IV – Summary of Requested Services

For each of the requested services identified below, please indicate with a value of All, Partial, or None, whether these services are included in your proposal.

- Supplier will fully provide the service requested = All (**A**)
- Supplier will only provide some of the service requested = Partial (**P**)
If P, please specify which services can or cannot be met in the column marked A/P/N
- Supplier will not provide this service = None (**N**)

* In all cases, please indicate if there is any additional cost above and beyond the proposal and how it is structured (for example – flat rate vs hourly).

The information in this section must be included in your response.

4.1 Account Management	A/P/N
1. Host regular meetings with City Liaison, per mutually agreed schedule.	
2. Provide monthly account status.	
3. Provide monthly services report.	
4. Provide monthly invoice, per City standard process.	
5. Reconcile issues / situations effectively and in a timely manner in conjunction with City liaison.	

4.2 Computer operations backup	A/P/N
1. Monitor and manage production schedules as determined by existing schedules and/or users.	
2. Monitor jobs and critical applications.	
3. Monitor systems for ABENDS.	

4. Monitor exception logs.	
5. Recover failed jobs as they occur.	
6. Restart jobs, tasks and scripts that end abnormally, as prescribed, directed and/or according to service provider developed operational procedures.	
7. Respond expeditiously to requests for priority job and task execution.	
8. Enter program control specifications (parameters) into application job streams as directed by authorized users.	
9. Ensure jobs that transmit reports execute properly.	
10. Promptly notify City of Rochester if special requests will affect the timely completion of other tasks.	
11. Prioritize and schedule batch jobs, tasks, scripts and report distribution (in accordance with schedule parameters) to optimize the use of processing windows and the scheduled availability of online applications that are dependent on batch or task processing, while verifying that batch completion times are met.	
12. Where practical, provide for automated scheduling of batch and asynchronous task processes including backups.	

4.3 Documentation	A/P/N
1. Develop and maintain all documentation and services, including all authorized user related documentation.	
2. Develop and maintain technical specifications, functional specifications and requirements for all environments and related interfaces.	
3. Update user, system, and operations documentation as necessary.	

4.4 Backup Processes	A/P/N
1. Execute customer-defined backup procedures.	
2. Notify Customer regarding receipt of tapes.	
3. Ability to resolve daily system backups performed by CA/DYNAMD process. Understanding of CA/DYNAMT concept is critical.	
4. For existing Disaster Recovery tape handling services; Full volume backups- should be able to provide equivalent services.	

4.5 Disaster Recovery Processes	A/P/N
1. Provide Disaster Recovery and IT Service Continuity Management support.	
2. Maintain/upgrade existing City of Rochester procedures to support Disaster Recovery for mission critical applications.	
3. Perform application recovery testing as part of annual disaster recovery process.	
4. Retest any unsuccessful annual test within ninety (90) days of the failure, to retest remedial actions.	
5. Implement the Disaster Recovery Plan upon the occurrence of a disaster. D/R location must be located within the continental U.S. and a minimum of 60 miles away from the primary processing facility.	

4.6 Environment Maintenance	A/P/N
1. Ability to utilize MIS Print server concept or propose alternate solution.	

2. Ability to print to both Xerox printers without channel attached bus and tag connection from VSE list queue.	
3. Ability to print to the impact printer from List Queue.	
4. Set up additional mainframe resources as reasonably requested (E.G. CMS machines).	

4.7 Project Management	A/P/N
<ol style="list-style-type: none"> 1. Upon receipt of a request for new development or enhancement services, prepare a proposal, which includes the following: <ol style="list-style-type: none"> a. A project plan describing the approach and project timeline. b. Cost and resource estimates for each phase of the development enhancement (i.e. design, programming and alpha testing, user acceptance testing, training and implementation). c. Estimate of post-implementation costs and resource requirements for maintenance and support. 	
<ol style="list-style-type: none"> 2. Utilize project management principles that meet the following requirements: <ol style="list-style-type: none"> a. Use City of Rochester's approved project management tools. b. Recommend, maintain and update project schedules. c. Develop a proposed pricing structure for projects. d. Monitor, track, and report actual results versus forecasted results. e. Perform variance analysis. f. Monitor and report progress, and institute corrective action against the plan. g. Hold status update meetings according to the project plan. h. Establish a critical resource list for each project. i. Provide necessary resources for projects. 	

4.8 Security / Compliance	A/P/N
----------------------------------	--------------

1. Comply with all City of Rochester standards, enterprise architecture guidance and security policies.	
2. Apply security alerts and hot-fixes.	
3. Perform Security administration	
4. On an ongoing basis, ensure only authorized service provider agents are granted access to the City of Rochester production environment in accordance with the security policies.	

4.9 Software / hardware maintenance – Production and Test environments	A/P/N
1. Create and deliver production software patches, as needed and/or requested.	
2. Maintain IBM and Third Party operating system software (as specified in Attachment B)	
3. Schedule hardware/software maintenance/upgrades, coordinating as needed with vendor resources.	
4. No environment changes (hardware or software) should be made without first notifying the City liaison.	
5. All environment changes (hardware or software) are to be coordinated with City IT personnel via the City liaison.	
6. Provide OS support requirements for device changes	
7. Performing Operating System administration: <ul style="list-style-type: none"> a. Providing version level upgrades and new installs. b. Applying PTFs, which includes reviewing Vendor alerts and hot-fix patches regularly 	
8. Report generally available performance data and resource utilization statistics related to system software release level upgrades.	

4.10 Support	A/P/N
1. Implement an effective and efficient operations environment and monitor it 24x7 or that fulfills the mutually agreed Service Level Agreements (SLAs).	
2. Support the 24x7 production processing schedule (except during scheduled maintenance hours) as required by City of Rochester.	
3. Provide Level 2 support and Level 3 support to the Service Desk, authorized users and/or Application Services team as required.	
4. Contact City staff and/or third parties as necessary during off hours and work with them on high level support issues.	
5. Support Production and Test environments.	
6. Report incidents in accordance with a mutually agreed upon Incident Management Process.	
7. Provide response and resolution to incidents, as required, in order to meet the mutually agreed Service Level Agreements (SLAs).	
8. When needed, devise short term workarounds to contain the incident's impact.	
9. Provide error-correction activities to incidents as required, in order to meet the mutually agreed Service Level Agreements (SLAs). (E.G. Perform restores as necessary, ad-hoc, individual dataset through full volume recovery).	
10. Work closely with City of Rochester personnel to provide appropriate progress reporting and effective incident resolution.	
11. Take responsibility for service provider maintained software, such as with IBM and 3 rd party vendors: a. Identify application and/or database issues. b. Notify the applicable service provider escalating to Vendor's support teams as needed	

<ul style="list-style-type: none"> c. Troubleshooting with vendors – providing general OS technical support; responding to questions targeted at OS engineering d. Arrange for the service provider corrections to be made. e. Coordinate and test the service provider corrections f. Schedule the installation of the service provider corrections into production. 	
<p>12. Provide technical services and systems support on technical topics such as (but not limited to):</p> <ul style="list-style-type: none"> a. VSE JCL b. Different versions of compiler support (COBOL compiler use, EASYTRIEVE, CA products etc.) for variety of City legacy programming languages used in VSE and VM environment. c. JCL DJDE code d. RSCS printer issue for the application support e. Ability to change and activate VMUTIL scheduler CMS machine whenever a change is requested by the Application Services team. 	

4.11 System monitoring and problem prevention	A/P/N
1. Monitor production environment 24x7 and respond to and/or prevent errors based on pre-defined actions.	
2. Respond to system messages and requests for resources as required.	
3. Detect / anticipate equipment issues and contacting the City as appropriate.	
4. Monitor operating system consoles.	
5. Analyze and document cause and nature of both scheduled and unscheduled outages.	
6. Lead post incident / problem reviews on all mutually agreed production incidents in order to: <ul style="list-style-type: none"> a. Identify the root cause of the incident or problem. 	

b. Develop appropriate prevention and improvement initiatives.	
7. Perform capacity planning	
8. Manage CPU, disk and tape utilization	
9. On an ongoing basis, enhance processing capabilities and efficiencies through system performance monitoring, tuning, run time improvements, etc. and provide product research, project support and advice for gaining efficiency	
10. Develop, where appropriate, and install productivity tools/utilities, as well as performing all required operational modifications for the efficient and proper delivery of services.	
11. Produce trend reports to highlight production issues and establish predetermined action and escalation procedures when batch window issues are encountered.	
12. Understand VMUTIL scheduler for automated process and monitor any failures and escalate to Application support team.	
13. Understand all unattended VM CMS utility production machines that performs activities throughout the day 24X7 and monitor any failures and escalate to Application team.	

Provide estimated training requirements based upon proficiency with our environment – section 1.3.2. All training should be done on-site at the Public Safety Building.

Attachment A

Complete Cost/Funding Breakdown for all 3 sections (Transition, Ongoing & D/R) - based on current environment or less (MIPS=59, MSU =7 & IBM Business Group 38)

Type of Cost	Base Rate <u>59 MIPS</u> # ___ MIPS (specify if different)	Hourly Rate (Indicate if different than hourly rate - for costs above base rate)	24X7 Cost (If not included in base rate)	State Contract/GSA Pricing	Estimated Duration
Evaluation/Transition					
Current System Evaluation					
Transition Cost-include training, testing and implementation					
Ongoing Environment					
Itemize Base Monthly Maintenance and support					
MSU decrement costs below 59 MIPS-savings	Y / N	Indicate if this is an available option ← and reflect the costs in fields below			
Disaster Recovery					
Disaster Recovery Base Monthly Charge Include separately- Disaster Recovery periodic testing, disaster declaration fee etc. if applicable.					

Complete Cost/Funding Breakdown to later transition to environment of less than 59 MIPS and identify the reduced cost and cost to transition if a transition cost applies.					
Type of Cost	Base Rate # of MIPS # ___ MIPS (specify)	Hourly Rate (Indicate if different than hourly rate - for costs above base rate)	24X7 Cost (If not included in base rate)	State Contract/GSA Pricing	Estimated Duration
Future Decreasing Cost – transition cost		← This is the transition cost to a decremented environment			
Itemize Base Monthly Maintenance and support					
Disaster Recovery					
Disaster Recovery Base Monthly Charge Include separately– Disaster Recovery periodic testing, disaster declaration fee etc. if applicable.					

Please identify any additional costs that may not be identified above.

Are there any cost differences (increases or decreases) to the City of Rochester based upon your hosted environment and any software that we license? For example, are there potential cost savings if the City of Rochester leverages use of your license? See [Attachment B](#) for our 3rd party software.

Attachment B - Existing Software / Hardware installed at City Of Rochester

CITY OF ROCHESTER AS OF OCTOBER 2016

VM/VSE HARDWARE INFORMATION

CPU: IBM SYSTEM Z10 BUSINESS CLASS ENTERPRISE SERVER
 MACHINE TYPE: 2098, MODEL E10, F01
 (2 LPARS):
 59 MIPS (RUNS BULK OF CITY BUSINESS OPERATIONS), MSU=7
 REAL MEMORY: 12GB

CPUID: FF0164A620988000

CPU SERIAL #: 164A6

2424 (DS8870) EXTERNAL DASD SPECS:
 CONFIGURED AS 3390 DASD
 4.8TB
 15 TRKS/CYL.
 58786 BYTES/TRK.
 2.945 GB/PACK.

CHANNEL SPECS:
 EIGHT ESCON CHANNELS.
 EIGHT FICON CHANNELS FOR DASD AND TAPE .

VIRTUAL IBM Type 3490 (16 DRIVES)
TAPE ADDRESSES: 470-477 (PRODUCTION ONLY) VTA USE
DRIVES: 480-483 (TEST ENVIRONMENT) VTA USE
 490-493 (Free Drives for CMS usage)

REAL TAPE IBM TYPE 3592 CARTRIDGE (2 DRIVES)-Disaster Recovery Purposes
DRIVES: ADDRESSES: 5B0-5B1 (VM/VSE USAGE)

PRINTERS: XEROX D95CP LASER PRINTER (3211)
 XEROX D120CP AT CITY HALL FOR BACKUP.

2424 (DS8870) EXTERNAL DASD SPECS:
 CONFIGURED AS 3390 DASD
 4.8TB
 15 TRKS/CYL.
 58786 BYTES/TRK.
 2.945 GB/PACK.

VM/VSE SOFTWARE INFORMATION

-----VM SECTION-----

SOFTWARE INSTALLED

VENDOR	PRODUCT	MAINT/SERV	PROD/SERVICE LEVEL	LIB. LOCATION
IBM	Z/VM VERSION 5, REL. 4.0	0901 (64-BIT)		
IBM	Z/VSE - Version 5 Release 2			
IBM	CMS LEVEL 24	901		
IBM	GCS VERSION 5, REL. 4.0	901		
IBM	CMS UTILITIES V1R11 (R03M00)		S-DISK (190)	
IBM	IOCP/VM V1R91		S-DISK (190)	
IBM	VSE/VSAM FOR VM/CMS (V6R10)			
IBM	DMS/CMS (V2R10)		Y-DISK (19E)	
IBM	TCP/IP Z/VM V540			
IBM	PERFORMANCE TOOLKIT FOR VM FL540 (REPLACES RTM/ESA/ALIAS SMART)			
IBM	RSCS V3R20		RSCSNET	
IBM	DITTO/ESA V1R30 (VM)		Y-DISK (19E)	
IBM	LE/370 SUBSET V1R60			
IBM	EREP/VM V3R50		EREP	
IBM	DEVICE SUPPORT FACILITIES V1R17.0 (ICKDSF)		Y-DISK	
IBM	HIGH LEVEL ASSEMBLER V1R40 (HLASM) (VM)		Y-DISK	
IBM	3270 PC FTP/VM VER. 1.11 (IND\$FILE MODULE T1) (PRODUCT 5664-281-01)		MAINT 3B0 (T-DISK) & MAINT 319(P-DISK)	

-----VSE SECTION-----

SOFTWARE INSTALLED

CITY OF ROCHESTER

AS OF OCTOBER 2016

A04BTP INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - TCP/IP 1.5.0
COMPRISES 5686-A0400
RESIDES IN PRD1.BASE (PRODUCTION PART)

BS1B10 INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - IPV6/VSE 1.1
COMPRISES 5686-BS100
RESIDES IN PRD2.TCPIPB (PRODUCTION PART)

CF951C INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - VSE CENTRAL
COMPRISES 5686-CF911 5686-CF910 5686-CF909 5686-CF908
5686-CF905 5686-CF903 5686-CF901
RESIDES IN IJSYSRS.SYSLIB (PRODUCTION PART)

CF951D INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - VSE IUI ENGL
COMPRISES 5686-CF902
RESIDES IN IJSYSRS.SYSLIB (PRODUCTION PART)

CF951G INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - VSE AF/PWR/V
COMPRISES 5686-CF906 5686-CF905 5686-CF903
RESIDES IN PRD1.MACLIB (PRODUCTION PART)

CF951I INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - VSE REXX/OLT
COMPRISES 5686-CF916 5686-CF912
RESIDES IN PRD1.BASE (PRODUCTION PART)

CF951J INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - VSE AF GENER
COMPRISES 5686-CF906
RESIDES IN PRD2.GEN1 (PRODUCTION PART)

CF951K INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - LE/VSE BASE
COMPRISES 5686-CF932
RESIDES IN PRD2.SCEEBAE (PRODUCTION PART)

CF951L INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - LE/VSE C 1.4
COMPRISES 5686-CF933
RESIDES IN PRD2.SCEEBAE (PRODUCTION PART)

CF951M INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - LE/VSE DBCS
RESIDES IN PRD2.SCEEBAE (PRODUCTION PART)

CF951N INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - VSE CONNECTO
COMPRISES 5686-CF935
RESIDES IN PRD1.BASE (PRODUCTION PART)

CF951O INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - OSA/SF 9.1.0
COMPRISES 5686-CF930
RESIDES IN PRD1.BASE (PRODUCTION PART)

CF951P INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - VSE CONNECTO
COMPRISES 5686-CF938
RESIDES IN PRD2.PROD (PRODUCTION PART)

CF951S INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - CRYPTO SERVI
COMPRISES 5686-CF917
RESIDES IN PRD1.BASE (PRODUCTION PART)

CF951V INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - CF OS/390 AP
 COMPRISES 5686-CF914
 RESIDES IN PRD2.OS390 (PRODUCTION PART)
 CF951W INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - LE/VSE COBOL
 COMPRISES 5686-CF936
 RESIDES IN PRD2.SCEEBCASE (PRODUCTION PART)
 COMPRISES 5686-CF937
 DS21NM INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - ICKDSF 1.17.
 COMPRISES 5658-99201
 RESIDES IN IJSYSRS.SYSLIB (PRODUCTION PART)
 F424NO INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - ASN/VSE 7.4.
 COMPRISES 5697-F4201
 RESIDES IN PRD2.ASN740 (PRODUCTION PART)
 F425NC INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - DB2/VSE CLIE
 COMPRISES 5697-F4207
 RESIDES IN PRD2.DB2750C (PRODUCTION PART)
 F425NN INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - DB2/VSE 7.5.
 COMPRISES 5697-F4201
 RESIDES IN PRD2.DB2750 (PRODUCTION PART)
 02614V INSTALLATION DATE = 06/10/2013 'Z/VSE 4.2.0 - CICS/VSE GEN
 COMPRISES 5686-02601
 RESIDES IN PRD2.CICSOLDG (PRODUCTION PART)
 02614W INSTALLATION DATE = 06/10/2013 'Z/VSE 4.2.0 - CICS/VSE RCF
 COMPRISES 5686-02601
 RESIDES IN PRD2.CICSOLDP (PRODUCTION PART)
 02614X INSTALLATION DATE = 06/10/2013 'Z/VSE 4.2.0 - CICS/VSE PRO
 COMPRISES 5686-02601
 RESIDES IN PRD2.CICSOLDP (PRODUCTION PART)
 054B0P INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - CICS TS FOR
 COMPRISES 5648-05400
 RESIDES IN PRD1.BASE (PRODUCTION PART)
 065FE6 INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - ACF/VTAM VER
 COMPRISES 5686-06501
 RESIDES IN PRD1.BASE (PRODUCTION PART)
 099360 INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - DITTO/ESA VE
 COMPRISES 5648-09901
 RESIDES IN PRD1.BASE (PRODUCTION PART)
 234689 INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - HLASM 1.6.0'
 COMPRISES 5696-23400
 RESIDES IN PRD1.BASE (PRODUCTION PART)
 260E00 INSTALLATION DATE = 10/22/2012 'Z/VSE 5.1.0 - EREP VERSION
 COMPRISES 5656-26001
 RESIDES IN PRD1.BASE (PRODUCTION PART)

-THIRD PARTY VENDOR SECTION

SOFTWARE INSTALLED

UNIVERSAL SOFTWARE CASPER VERSION 0103 (VIRTUAL TAPE SYSTEM)

GROUP1 SOFTWARE EZ-9 ZIP PLUS4 REL 2.3 (AUGUST 1992)

ALLEN SYSTEMS TMON FOR CICS/TS VER. 1.0 PSL LEVEL: 0803
GROUP (ASG) (VSE) (CICSP/CICSXP)

ALLEN SYSTEMS PERFORMANCE WORKS VER 2.2 ML971C
GROUP (ASG) FOR VSE (CICSH)

ALLEN SYSTEMS MONITOR FOR CICS VER 7.8 ML971C
GROUP (ASG) (TMON/LSS) (CICSH)

COMPUTER ASSOCIATES UFO R3.2.0 (SP02/GL9410)
(CICSP, CICSXP)

CA-CIS SRVLEVEL 12 0801 CGN *

ESA/SYSTEM ADAPTER 6.1 12 0801 AY5 *

PRODUCT	RELEASE	SERVICE LEVEL	*
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CA-CATLG/MGMT	6.0	12 0801 AY3	*
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CA-CAISPACE 1.1 12 0801 AYE D E *

CA-DYNAM/D	7.1	00 0809 ADD	*
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CA-DYNAM/T 7.1 00 0809 ATD *

CA-DYNAM/FI	7.1	00 0809 AFD	*
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CA-CCI/VSE	1.1	12 0801 A3C	*
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CA-INDEX-VTOC 7.1 00 0809 AY9 *

CA-ENF/VSE	1.0	12 0801 B60	*
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COMPUTER ASSOCIATES CA-ACTIVATOR/VM 1.2 GENLEVEL 0204

COMPUTER ASSOCIATES CA-CIS 1.0 (VM) GENLEVEL 0204

COMPUTER ASSOCIATES DYNAM/T 2.3 (VM) GENLEVEL 0204

COMPUTER ASSOCIATES PANVALET (VSE) REL 14.4 (GL0106)

COMPUTER ASSOCIATES PANVALET (CMS OPTION) REL 14.4 (GL0106)

COMPUTER ASSOCIATES EASYTRIEVE/VSE VERSION 9.0D

COMPUTER ASSOCIATES EASYTRIEVE PLUS/VSE VERSION 6.3 (GL0102)

SYNCSORT INC. SYNCSORT/VSE REL 3.7D

SAS INSTITUTE S.A.S./CMS (SEGMENTS) REL 6.09E/TS470 (PROD)

SAS INSTITUTE S.A.S./CMS (NO SEGS.) REL 8.1/TS1M0 (TEST)

MERRILL CONSULTANTS (MXG-EXPANDED GUIDE TO CPE) MXG VER 9.9 (FOR SAS 6.09E) MXG VER 11.11 (FOR SAS 6.09E)

(MXG-EXPANDED GUIDE TO CPE) MXG VER 16.01 (FOR SAS 6.09E)

Section V – City of Rochester Agreement for Professional Services

AGREEMENT FOR PROFESSIONAL SERVICES

Project Name:

Consultant Name:

Agreement #:

Authorizing Ordinance:

I N D E X

ARTICLE I

Part 1. DESCRIPTION OF PROFESSIONAL SERVICES

Part 2. SUBCONTRACTS

Part 3. CITY RESPONSIBILITIES

Part 4. FEES

Part 5. TERM

Part 6. TIME OF PERFORMANCE

Part 7. REMOVAL OF PERSONNEL

Part 8. AUTHORIZED AGENT

Part 9. OWNERSHIP OF DOCUMENTS

Part 10. CONFIDENTIALITY

Part 11. ORGANIZATIONAL CONFLICT OF INTEREST

ARTICLE II

Part 1. QUALIFICATIONS, INDEMNITY AND INSURANCE

Section 2.101	Consultant's Qualifications for Duties, Compliance and Permits
Section 2.102	Consultant's Liability
Section 2.103	General Liability Insurance
Section 2.104	Worker's Compensation and Disability Benefits Insurance

Section 2.105	Copyright or Patent Infringement
Section 2.106	No Individual Liability

Part 2.EMPLOYMENT PRACTICES

Section 2.201	Equal Employment Opportunity
Section 2.202	The MacBride Principles
Section 2.203	Compliance with Labor Laws
Section 2.204	Living Wage Requirements

Part 3.OPERATIONS

Section 2.301	Political Activity Prohibited
Section 2.302	Lobbying Prohibited
Section 2.303	Anti-Kickback Rules
Section 2.304	Withholding of Salaries
Section 2.305	Discrimination Because of Certain Labor Matters
Section 2.306	Status as Independent Contractor

Part 4.DOCUMENTS

Section 2.401	Patents and Copyrights
Section 2.402	Audit
Section 2.403	Content of Sub-Agreements

Part 5.TERMINATION

Section 2.501	Termination for Convenience of the City
Section 2.502	Termination for Default

Part 6.GENERAL

Section 2.601	Prohibition Against Assignment
Section 2.602	Compliance with All Laws
Section 2.603	Successors
Section 2.604	Interest of City and Consultant in Contract
Section 2.605	Permits, Laws and Taxes
Section 2.606	Obligations Limited to Funds Available
Section 2.607	Extent of Agreement
Section 2.608	Law and Forum
Section 2.609	No Waiver
Section 2.610	Severability

AGREEMENT

THIS AGREEMENT, entered into on the ____ day of _____, 20____, by and between the CITY OF ROCHESTER, a municipal corporation having its principal office located at CITY HALL, 30 Church Street, Rochester, New York, 14614, hereinafter referred to as the "City", and _____ with offices at _____, hereinafter referred to as the "Consultant".

WITNESSETH:

WHEREAS, the City, , desires to secure the professional services of the Consultant to _____, hereinafter referred to as the Project and;

WHEREAS, the Consultant covenants that it has the personnel, skills and expertise required and wishes to undertake the Project.

NOW THEREFORE, the City and the Consultant do mutually agree, in consideration of the covenants, terms and conditions contained herein, as follows:

ARTICLE I, Part 1. Description of Professional Services

A. The Consultant is to have on its staff and is to retain during the performance of its services all appropriate professional personnel necessary to completely and accurately perform the work and services required.

B. The Consultant's obligations under this Section are in addition to the Consultant's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that the City may have against the Consultant for faulty materials, equipment or work.

ARTICLE I, Part 2. Subcontracts

All services to be performed under this Agreement shall be performed with the Consultant's own employees, unless the City agrees that the Consultant may subcontract such services. Copies of all proposed Agreements between the Consultant and subcontractors shall be submitted to the City along with a statement of the subcontractor's qualifications. Such Agreements must be approved by the City in writing prior to initiation of work. All subcontracts under this Agreement are subject to all applicable provisions of this Agreement unless otherwise directed in writing by the City. The Consultant is responsible for the completion of all services under this Agreement in an acceptable and timely manner, including any services performed by a subcontractor, supplier or other party with whom the Consultant has a contract.

ARTICLE I, Part 3. City Responsibilities

The City shall:

- a. Provide as complete information pertinent to the Project to the Consultant as is reasonably possible.
- b. Examine all studies, reports, sketches, estimates, drawings, specifications, proposals and other documents presented to the City by the Consultant for review and render decisions pertaining thereto within a reasonable period of time, so as not to delay the work of the Consultant.

ARTICLE I, Part 4. Fees

- A. In no event whatsoever shall the total fee payable to the Consultant pursuant to this Agreement, including all costs and disbursements whatsoever, exceed Dollars (\$.)
- B. The Consultant shall have the right to bill the City for services performed and not already billed on a (monthly basis) (upon completion of all work required under this Agreement) (upon completion of _____).
- C. Payment Request

The Consultant shall submit duly executed vouchers upon forms which shall be supplied and in the manner prescribed by the City to receive payment. Invoices shall be attached to the vouchers.

ARTICLE I, Part 5. Term

This Agreement shall commence (upon execution by the parties) (on DATE) and shall terminate (one year from such date) (on DATE).

ARTICLE I, Part 6. Time of Performance

- A. The Consultant shall provide all reports, deliverables, and submittals in a timely fashion.

- B. The Consultant shall not be held responsible for delays caused by the City of Rochester or by other parties not directly under its control.
- C. The above time limits may be extended only by mutual written agreement of the parties hereto. It is understood that it is the intention of the City to have the service performed under this Agreement carried out as expeditiously as possible.

ARTICLE I, Part 7. Removal of Personnel

All personnel assigned by the Consultant shall be subject to the approval of the City and be required to cooperate with the City project personnel. In the event that the Consultant's personnel fail to cooperate or perform their assigned tasks in a reasonable manner as determined by the City, the City may require the Consultant to replace such personnel.

ARTICLE I, Part 8. Authorized Agent

- A. The City hereby designates the:

Department of Information Technology

City Hall

30 Church Street

Rochester, New York 14614-1278

- B. The Consultant hereby designates:

or an authorized representative in case of absence, as Authorized Agents for the receipt of all notices, demands, vouchers, orders, permissions, directions, and other communications pursuant to this Agreement, if dispatched by registered or certified mail, postage prepaid, or delivered personally to the Authorized Agents designated herein. The City's agent is authorized to request in writing such additional services within the maximum authorized compensation as the Agent deems necessary.

The parties reserve the right to designate other or additional Authorized Agents upon written notice to the other.

ARTICLE I, Part 9. Ownership of Documents

All original notes, drawings, specifications and survey maps prepared by the Consultant under this Agreement, upon completion of the work required herein, or upon acceptance by the City of each individual Assessment report will become the property of the City and shall be delivered to the City's Authorized Agent. The Consultant may provide a complete reproducible set of drawings, specifications, survey maps and all other documents in lieu of the originals.

ARTICLE I, Part 10. Confidentiality

The Consultant agrees that any and all data, analyses, materials or other information, oral or written, made available to the Consultant with respect to this Agreement, and any and all data, analyses, materials, reports or other information, oral or written, prepared by the Consultant with respect to this Agreement shall, except for information which has been or is publicly available, be treated as confidential; and shall not be utilized, released, published or disclosed by the Consultant at any time for any purpose whatsoever other than to provide consultation or other services to the City.

ARTICLE I, Part 11. Organizational Conflict of Interest

- A. The Consultant warrants that to the best of the Consultant's knowledge and belief, there are not relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Consultant has disclosed all such relevant information.
- B. An organizational conflict of interest exists when the Consultant performs or agrees to perform services for another party that could foreseeable implicate the City as a potentially responsible party in an environmental enforcement action or claim against the City or otherwise increase the potential liability of the City.
- C. The Consultant agrees that if an actual or potential organizational conflict of interest is discovered, the Consultant will make a full disclosure as soon as possible in writing to the City. This disclosure shall include a description of actions which the Consultant has taken or proposed to take, after consultation with the City, to avoid, mitigate, or neutralize the actual or potential conflict.
- D. The City may terminate this Agreement in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Consultant was aware of a potential organizational conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose it, or misrepresented relevant information to the City, the City may terminate the Agreement, debar the Consultant from contracting with the City, or pursue such other remedies as may be permitted by law or this Agreement. In such event, termination of this Agreement shall be deemed a termination for default pursuant to Section 2.602.
- E. The Consultant further agrees to insert in any subcontract hereunder, provisions which shall conform to the language of this Article.

ARTICLE II, Part 1. Qualifications, Indemnity and Insurance

Section 2.101 Consultant's Qualifications for Duties, Compliance and Permits

- A. The Consultant hereby agrees that it has, or will have, on its staff and will retain during the performance of this service under this Agreement, all appropriate professional personnel necessary to completely and accurately perform the work and services under this Agreement.
- B. The Consultant further agrees that the design of architectural or engineering features of the work shall be accomplished by professionals licensed to practice in New York State.
- C. The Consultant further agrees to insure that its subcontractors, agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

Section 2.102 Consultant's Liability

The Consultant hereby agrees to defend, indemnify and save harmless the City of Rochester against any and all liability, loss, damage, detriment, suit, claim, demand, cost, charge, attorney's fees and expenses of whatever kind or nature which the City may directly or indirectly incur, suffer or be required to pay by reason of or in consequence of the carrying out of any of the provisions or requirements of this Agreement, where such loss or expense is incurred directly or indirectly by the City, its employees, subcontractors or agents, as a result of the negligent act or omission, breach or fault of the Consultant, its employees, agents or subcontractors. If a claim or action is made or brought against the City and for which the Consultant may be responsible hereunder in whole or in part, then the Consultant shall be notified and shall be required to handle or participate in the handling of the portion of the claim for which it may be responsible as a result of this section.

Section 2.103 General Liability Insurance

The Consultant shall obtain at its own expense general liability insurance for protection against claims of personal injury, including death, or damage to property, arising out of the Project. The amount of said insurance coverage shall be the amount of Two Million Dollars if said insurance is a "Defense within Limits" policy under which all claim expenses are included within both the applicable limit of liability and self-insured retention. Otherwise, the insurance coverage shall be in the amount of One Million Dollars. Said insurance shall be issued by a reputable insurance company, authorized to do business in the State of New York. Said insurance shall also name the City of Rochester as an insured. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. Furthermore, the Consultant shall provide a listing of any and all exclusions under said policy. The insurance shall stipulate that, in the event of cancellation or modification the insurer shall provide the City with at least thirty (30) days written notice of such cancellation or modification. In no event shall such liability insurance exclude from coverage any municipal operations or municipal property related to this Agreement.

(Section 2.104 Professional Liability Insurance) OPTIONAL SECTION - ADD IF APPROPRIATE AND RENUMBER FOLLOWING SECTIONS AND MAKE CHANGES TO INDEX)

The Consultant shall procure at its own expense professional liability insurance for services to be performed pursuant to this Agreement, insuring the Consultant against malpractice or errors and omissions of the Consultant, in the amount of One Million Dollars. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. The certificate shall contain a thirty (30) day cancellation clause which shall provide that the City shall be notified not less than thirty (30) days prior to the cancellation, assignment or change of the insurance policy. The Consultant shall also give at least thirty (30) days notice to the City of such cancellation, amendment or change, and of any lapse of insurance coverage under this Agreement.

Section 2.104 Workers' Compensation and Disability Benefits Insurance

This Agreement shall be void and of no effect unless the Consultant shall require all the Consultant's subcontractors to keep insured, during the life of this Agreement, all employees of said subcontractors as are required to be insured under the provisions of the Workers' Compensation Law of the State of New York. In the event the Consultant hires its own employees to do any work called for by this Agreement, then the Consultant agrees to so insure its own employees. The Consultant shall provide proof to the City, duly subscribed by an insurance carrier, that such Workers' Compensation and Disability Benefits coverage has been secured. In the alternative, Consultant shall provide proof of self-insurance or shall establish that Workers' Compensation and/or Disability Benefits coverage is not required by submitting the current New York State Workers' Compensation Board's form.

Section 2.105 Copyright or Patent Infringement

The Consultant shall defend actions or claims charging infringement of any copyright or patent by reason of the use of adoption of any designs, drawings or specifications supplied by it, and it shall hold harmless the City from loss or damage resulting therefrom, providing however, that the City within ten days after receipt of any notice of infringement or of summons in any action therefor shall have forwarded the same to the Consultant in writing.

Section 2.106 No Individual Liability

Nothing contained in the Agreement shall be construed as creating any personal liability on the part of any officer or agent of the City.

ARTICLE II, Part 2. Employment Practices

Section 2.201 Equal Employment Opportunity

A. General Policy

The City of Rochester, New York reaffirms its policy of Equal Opportunity and its commitment to require all contractors, lessors, vendors and suppliers doing business with the City to follow a policy of Equal Employment Opportunity, in accordance with the requirements set forth herein. This policy is adopted pursuant to the City's Affirmative Action Plan, Article XV - Contract Compliance. The City further does not discriminate on the basis of handicap status in admission, or access to, or treatment or employment in its programs and activities. The City is including these policy statements in all bid documents, contracts, and leases. Contractors, lessors, vendors and suppliers shall agree to comply with State and Federal Equal Opportunity laws and regulations and shall submit documentation regarding Equal Opportunity upon the City's request.

B. Definitions

GOOD FAITH EFFORT - shall mean every reasonable attempt to comply with the provisions of this policy by making every reasonable effort to achieve a level of employment of minority groups and female workers that is consistent with their presence in the local work force.

MINORITY GROUP PERSONS - shall mean a person of Black, Spanish surname American, Asian American or American Indian ethnic or racial origin and identity.

C. Compliance

The Consultant shall comply with all of the following provisions of this Equal Opportunity Requirement:

1. The Consultant agrees that he/she will not discriminate against any employee for employment because of age, race, creed, color, national origin, sex, sexual orientation, disability, or marital status in the

performance of services or programs pursuant to this Agreement, or in employment for the performance of such services or programs, against any person who is qualified and available to perform the work in which the employment relates. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that applicants are hired and that employees are treated during their employment, without regard to their age, race, creed, color, national origin, sex, sexual orientation, disability, or marital status.

2. If the Consultant is found guilty of discrimination in employment on the grounds of age, race, creed, national origin, sex, sexual orientation, disability or marital status by any court or administrative agency that has jurisdiction pursuant to any State or Federal Equal Opportunity laws or regulations, such determination will be deemed to be a breach of contract, and this Agreement will be terminated in whole or part without any penalty or damages to the City on account of such cancellation or termination and the Consultant shall be disqualified from thereafter selling to, submitting bids to, or receiving awards of contract with the City of Rochester for goods, work, or services until such time as the Consultant can demonstrate its compliance with this policy and all applicable Federal and State Equal Opportunity laws and regulations.
3. The Consultant shall cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

Section 2.202 The MacBride Principles

The Consultant agrees that it will observe Ordinance No. 88-19 of the City of Rochester, which condemns religious discrimination in Northern Ireland and requires persons contracting to provide goods and services to the City to comply with the MacBride principles. A copy of the MacBride principles is on file in the Office of the Director of Finance.

Section 2.203 Compliance with Labor Laws

The Consultant specifically agrees to comply with the labor law requirements of Articles 8 and 9 of the Labor Law of the State of New York, and, more specifically, with the requirements of Sections 220, 220-a, 220-d and 220-e of the Labor Law. These provisions require the payment of prevailing wages and supplements to, the verification of payment of wages of, and require preference in the employment of New York residents, and prohibit discrimination based on race, creed, color, sex, national origin, or age, and prohibit the permitting or requiring of more than eight hours per day and forty hours per week from laborers, mechanics, or workers on a public works construction project. The foregoing requirements do not generally apply to professional staff, draftsmen, or clerical help or most other employees of an engineer or architect who is performing design, research, or inspection work only. The Consultant shall, however, comply with all state, federal and local non-discrimination and equal employment opportunity laws and rules and will be subject under this Agreement to fines, penalties and contract termination when the City reasonably determines that the Consultant has unlawfully discriminated because of the race, color, creed, national origin, sex or age of any applicant for employment or any employees.

Section 2.204 Living Wage Requirements

A. Applicability of Living Wage Requirements

This section shall apply and the Consultant shall comply with the requirements of Section 8A-18 of the Municipal Code of the City of Rochester, known as the “Rochester Living Wage Ordinance”, in the event that payments by the City to the Consultant under this Agreement shall exceed fifty thousand dollars (\$50,000) during a period of one year. If this Agreement is amended to increase the amount payable hereunder to more than fifty thousand dollars (\$50,000) during a period of one year, then any such amendment shall be subject to Section 8A-18.

B. Compliance

The Consultant shall pay no less than a Living Wage to any part-time or full-time Covered Employee, as that term is defined in Section 8A-18B, who directly expends his or her time on this Agreement, for the time said person actually spends on this Agreement. Living Wage, as set forth in this Agreement, shall be the hourly amount set forth in Section 8A-18(C)(2), and any adjustments thereto, which shall be made on July 1 of each year and shall be made available in the Office of the City Clerk and on the City's website, at www.cityofrochester.gov. Consultant shall also comply with all other provisions of Section 8A-18, including but not limited to all reporting, posting and notification requirements and shall be subject to any compliance, sanction and enforcement provisions set forth therein.

C. Exemption

This section shall not apply to any of Consultant's employees who are compensated in accordance with the terms of a collective bargaining agreement.

ARTICLE II, Part 3. Operations

Section 2.301 Political Activity Prohibited

None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used during the performance of the Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

Section 2.302 Lobbying Prohibited

None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the United States Congress, the Legislature of the State of New York or the Council of the City of Rochester.

Section 2.303 Anti-Kickback Rules

Salaries of employees performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions that are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 108; title 18 U.S.C., section 874; and title 40 U.S.C., section 276c). The Consultant shall comply with applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to insure compliance by subcontractors with such regulations and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

Section 2.304 Withholding of Salaries

If, in the performance of this Agreement, there is notice to the City of any underpayment of salaries by the Consultant or by any subcontractor thereunder, the City shall withhold from the Consultant out of payments due to it an amount sufficient to pay the employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the City for and on account of the Consultant or subcontractor to the respective employees to whom they are due.

Section 2.305 Discrimination Because of Certain Labor Matters

No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because the person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify at any proceeding relating to the labor standards applicable hereunder to that person's employer.

Section 2.306 Status as Independent Contractor

The Consultant, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself in a manner consistent with such status, that it will neither hold itself nor its employees out as, nor claim to be an officer or employee of the City by reason hereof, and that it and its employees will not by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer or employee of the City, including but not limited to Workers' Compensation coverage, unemployment insurance benefits, social security coverage, and retirement membership or credit.

ARTICLE II, Part 4. Documents

Section 2.401 Patents and Copyrights

The Consultant agrees that, in the event it, or any of its employees' develop any material for which a copyright can be obtained which material was developed as a result of or in connection with the work required pursuant to this Agreement, the City shall own the copyright to any copyrightable material and may, in its discretion, grant a royalty-free, non-exclusive license to use, reproduce and distribute such copyrightable material. The Consultant further agrees that in the event it, or any of its employees, develops any process, machinery or product for which a patent would be obtainable, the Consultant shall provide the necessary information to the City, so that the City can apply for such patent at its own expense. Such patent shall become the property of the City; provided, however, that the City may, in its discretion, may grant to Consultant a royalty-free, non-exclusive license to produce or reproduce such patented product. The benefits of either a patent or a copyright shall also inure to any public agency which finances, in whole or in part, this project and such agency shall receive a royalty-free, non-exclusive license to use, reproduce, manufacture and distribute the product or mater which has been patented or copyrighted.

Section 2.402 Audit

The Consultant agrees to maintain sufficient on-site records and information necessary for the documentation of any and all facets of program operation specified by this Agreement. The Consultant shall maintain all books, documents, papers and other evidence pertinent to the performance of work under this Agreement in accordance with generally acceptable accounting principles, and 40 CFR Part 30 in effect during the term of this Agreement. The Consultant agrees to permit on-site inspection and auditing of all records, books, papers and documents associated with this Agreement by authorized representatives of the City and further agrees to provide necessary staff support to the performance of such audit. The Consultant agrees to maintain for a period of six (6) consecutive years following termination of this Agreement any and all records, reports and other documentation arising from the performance of this Agreement; however, this period shall be extended beyond six years for any and all records and information pertaining to unresolved questions, which have been brought to the Consultant's attention by written notice by the City. The Consultant agrees to furnish to the City data to include but not be limited to, intake records, status change notices, termination notices, and follow-up records. Said reports will be submitted periodically as required by the City.

Section 2.403 Content of Sub-Agreements

The Consultant agrees that all sub-agreements authorized by this Agreement shall be in written form. The Consultant shall require all subcontractors to comply with any of the following sections which may be in this Agreement: "Equal Employment Opportunity; Affirmative Action and Employment of Local Labor; Compliance with Labor Laws; Certifications Regarding Conflicts of Interest; Anti-Kickback Rules; Interest of City and Contractor in Contract." It is the purpose of this section to insure that all Agreements obligate all parties performing work under this Agreement to comply with necessary governmental programs and policies. The City may require the Consultant to submit copies of such sub-agreements to the City. If such copies are not submitted upon request, the City may have the right to withhold any and all payments to the Consultant to those items of work which have not complied with this section.

ARTICLE II, Part 5. Termination

Section 2.501 Termination for Convenience of the City

A. This Agreement may be terminated by the City in accordance with this section in whole, or from time to time, in part, whenever for any reason, the City shall determine that such termination is in the best interest of the City. Any such termination shall be effective upon written notice to the Consultant. However, no such termination shall relieve the Consultant of any outstanding duties imposed by the Agreement, including the requirement to hold the City harmless and to maintain insurance coverage insuring against loss arising out of the Project.

B. If the Agreement is so terminated the City may take over the work and services and prosecute the same to completion by contract or otherwise. The Consultant, upon such termination, shall transfer title, and in the manner directed by the City, shall deliver to the City the completed or partially completed, plans, drawings information, other property and records of work being performed, which, if this Agreement had been completed, would be required to be furnished to the City.

C. After receipt of written notice of termination, the Consultant shall promptly submit to the City its termination claim in a form acceptable to the City. Such claim shall in no event be submitted later than one year from the effective date of termination.

D. In the event that the parties cannot agree, in whole or in part, as to the amount due by reason of the termination of the Agreement pursuant to this clause, the City shall pay the Consultant the amount determined as the total of the following:

1. The cost of all work performed prior to the effective date of termination.
2. The cost of settling and paying claims arising out of and as a direct result of the termination;
3. A sum as profit on subdivision 1. above, determined to be fair and reasonable, provided however, that if the Consultant would have sustained a loss on the entire Agreement had it been completed, no profit shall be included or allowed under this subdivision 3., and an appropriate adjustment shall be made reducing the amount of settlement to reflect the

indicated rate of loss. The total sum to be paid under this section shall not exceed the total price of this Agreement specified hereinabove, reduced by the amount of payments otherwise made, and further secured by the value of work remaining incomplete at the time of the termination of this Agreement.

Section 2.502 Termination for Default

A. The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or, from time to time, in part, whenever the Consultant shall default in performance of this Agreement in accordance with its terms (including in the term "default" any failure by the Consultant to make progress in the prosecution of the work hereunder which endangers such performance) and shall fail to cure diligently such default within a period of ten days or (or such longer period as the City may allow) after delivery by the City of a notice specifying the default.

B. If this Agreement is to be terminated, the City may take over the work and services and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the City for any excess cost occasioned thereby.

C. The total fee payable shall be such proportionate part of the fee as the value of the actual work completed and delivered bears to the value of the work required or contemplated by this Agreement.

D. This Agreement may not be so terminated if the failure to perform arises from unforeseeable causes beyond the control and without the fault or negligence of the Consultant.

E. If, after notice of termination of this Agreement under the provisions of this section, it is determined for any reason that the Consultant was not in default or that the default was excusable the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause of this Agreement entitled "Termination for the Convenience of the City."

F. The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

ARTICLE II, Part 6. General

Section 2.601 Prohibition Against Assignment

A. The Consultant agrees that it is prohibited from assigning or otherwise disposing of this Agreement or any of its contents, or of its right, title or interest therein, or of its power to execute such contract to any other person or corporation without the previous consent in writing of the City.

B. The Consultant shall be permitted to contract with other professions (particularly in the fields of forestry, horticulture or landscape architecture) for portions of the Project provided, however, the City approves, in writing, the selection of the individual, firm or firms contracted with and the Consultant shall remain responsible to the City for all provisions of this Agreement pertaining to services by other professionals.

Section 2.602 Compliance with All Laws

The Consultant agrees that during the performance of the work required pursuant to this Agreement, the Consultant, and all employees working under its direction, shall strictly comply with all local, state or federal laws, ordinances, rules or regulations controlling or limiting in any way their actions during their said performance of the work required by this Agreement. Furthermore, each and every provision of law, and contractual clause required by law to be inserted in this Agreement shall be deemed to be inserted herein. If, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon the application of either party this Agreement shall be forthwith physically amended to make such insertion or correction.

Section 2.603 Successors

The City and the Consultant each bind their successors, executors, administrators and assigns in respect of all covenants of this Agreement.

Section 2.604 Interest of City and Consultant in Contract

The City and the Consultant agree that no member, officer, or employee of the City or of the Consultant or assignees agents shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement.

Section 2.605 Permits, Laws and Taxes

A. In the event that services performed by the Consultant for the City are subject to taxation under Article 28 of the Tax Law (sales and compensating use tax) the Consultant shall receive from the City the material necessary to obtain a tax exempt certificate upon written request.

B. The Consultant shall pay all taxes, applicable to the work and materials supplied under this Agreement, it being understood that in no case shall any such tax be borne by the City, except as provided in subparagraph A. above.

Section 2.606 Obligations Limited to Funds Available

The parties specifically agree that the Consultant's duty to perform work under this Agreement and the City's obligation to pay for that work, including any out-of-pocket and

subcontracting expenses of the Consultant, shall be limited to the amount of money actually appropriated by the City Council and encumbered (i.e., certified as being available) for this Project by the City Director of Finance (or his authorized deputy). This provision shall limit the parties' obligation to perform even though this Agreement may provide for the payment of a fee greater than the appropriated and encumbered amount.

Section 2.607 Extent of Agreement

This Agreement constitutes the entire and integrated Agreement between and among the parties hereto and supersedes any and all prior negotiations, Agreements, and conditions, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged or by its authorized agent.

Section 2.608 Law and Forum

This Agreement shall be governed by and under the laws of the State of New York and the Charter of the City of Rochester. The parties further agree that Supreme Court of the State of New York, held in and for the County of Monroe shall be the forum to resolve disputes arising out of either this Agreement or work performed according thereto. The parties waive all other venue or forum selections. The parties may agree between themselves on alternative forums.

Section 2.609 No Waiver

In the event that the terms and conditions of this Agreement are not strictly enforced by the City, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent the City from enforcing each and every term of this Agreement thereafter.

Section 2.610 Severability

If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the laws of the State of New York.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day first written above.

THE CITY OF ROCHESTER

By:_____

Lovely A. Warren, Mayor

CONSULTANT

By:_____

Title:

Federal Tax Payer Id. No.

STATE OF NEW YORK

COUNTY OF MONROE

On this ____ day of _____, 2014, before me, the subscriber, personally came Lovely A. Warren, to me known, who being by me duly sworn, did depose and say that she resides in the City of Rochester, that she is the Mayor of the City of Rochester, the municipal corporation described in the above Agreement; that she signed her name thereto by authority of Ordinance No. ____.

Notary Public

STATE OF NEW YORK

COUNTY OF MONROE

On this _____ day of _____, 2014 before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public